

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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PENN AND SANDI ELLETSON,
Plaintiff,
vs.
CHALMERS AUTOMOTIVE, LLC, *et al.*,
Defendants.

2:17-cv-01107-JCM-VCF
ORDER

Before the Court is the Motion to Withdraw as Counsel of record for Chalmers Automotive, LLC, Albert J. Chalmers, and Michael Ferris (ECF No. 38). This action commenced on April 21, 2017. (ECF No. 1). Chalmers Automotive, LLC filed for Chapter 11 Bankruptcy on July 19, 2017. *Id.* at 2. The bankruptcy case has been dismissed and all assets of Defendant Chalmers Automotive LLC are in the process of being transferred to First Business Bank and Chalmers Automotive, LLC is no longer operating.

Id.

Discussion

Under Local Rule 7-2(d), the failure of an opposing party to file points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a consent to the granting of the motion. Here, no opposition has been filed. It would seem as though the opposing parties have consented to the granting of the instant motion.

Local Rule IA 11-6 provides that “[e]xcept for good cause shown, no withdrawal or substitution will be approved if it will result in delay of discovery, the trial, or any hearing in this case.” Trial date has

1 not been set. There are no pending hearings or motions, and discovery ends February 12, 2018. (ECF
2 No. 36).

3 Nevada Rule of Professional Conduct 1.16(a)(3) provides that a lawyer may withdraw if the “[t]he
4 lawyer is discharged.” Here, Albert J. Chalmers has given consent to Martin I. Melendrez, Esq., and Justin
5 R. Taruc, Esq., of the law firm of Hawkins Melendrez, P.C., and Chris Dove, Esq., of the law firm of DRZ
6 Law, to withdraw as counsel for himself and on behalf of Chalmers Automotive, LLC. Michael Ferris
7 has also consented to the withdrawal of counsel on his own behalf. (ECF No. 38 at 3).

8 Based on counsel’s representation, the Court permits counsel to withdraw. *Id.* LR IA 11-6(b);
9 NRPC 1.16(a)(3).

10 28 U.S.C. § 1654 provides that “[i]n all courts of the United States the parties may plead and
11 conduct their own cases personally.” *See C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th
12 Cir. 1987). Although individuals may represent themselves pursuant to this statute, a corporation is not
13 permitted to appear in Federal Court unless it is represented by counsel. *U.S. v. High Country
14 Broadcasting Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993). An individual also does not have the right to
15 appear on behalf of anyone other than himself. *Pope*, 818 F.2d at 697. The Ninth Circuit has permitted
16 motions to strike and motions to dismiss pleadings filed by *pro se* parties on behalf of entities including
17 trusts. *Id.* at 698; *United States v. Nagy*, C11-5066BHS, 2011 WL 3502488 (W.D. Wash. Aug. 10, 2011).
18 Chalmers Automotive, LLC may not proceed *pro se*, as corporations must be represented by counsel.

19 The Court finds that permitting counsel to withdraw would not result in delay. LR IA 11-6. No
20 hearing has been scheduled and trial date has not been determined.

21 Accordingly, and for Good Cause Shown,

22 IT IS HEREBY ORDERED Motion to Withdraw as Counsel seek to withdraw as counsel of record
23 for Chalmers Automotive, LLC, Albert J. Chalmers, and Michael Ferris (ECF No. 38) is GRANTED.

24 IT IS FURTHER ORDERED that Chalmers Automotive, LLC must retain counsel by

1 January 5, 2018. Failure to comply with this order may result in a recommendation to the District Judge
2 for sanctions, including case-dispositive sanctions.

3 IT IS FURTHER ORDERED that Martin I. Melendrez, Esq. must mail a copy of this Order to
4 Chalmers Automotive, LLC, Albert J. Chalmers, and Michael Ferris. The certificate of mailing must be
5 filed with this Court on or before December 14, 2017.

6 IT IS FURTHER ORDERED that Mr. Melendrez must file with the Court the last known
7 address(es) and contact information of Chalmers Automotive, LLC, Albert J. Chalmers, and Michael
8 Ferris on or before December 15, 2017.

9 DATED this 6th day of December, 2017.



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11 CAM FERENBACH
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13 UNITED STATES MAGISTRATE JUDGE
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